

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                             |   |                            |
|-----------------------------|---|----------------------------|
| <b>LEONARD HUDSON,</b>      | ) |                            |
| <b>Plaintiff,</b>           | ) |                            |
| <b>v.</b>                   | ) | <b>C.A. No. 12-12 Erie</b> |
|                             | ) |                            |
| <b>MRS. KENNEDY, et al,</b> | ) |                            |
| <b>Defendants.</b>          | ) |                            |

**MEMORANDUM ORDER**

Plaintiff's complaint was received by the Clerk of Court on January 24, 2012, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on July 26, 2013 [ECF No. 46], recommended that Defendants' motion to dismiss, or in the alternative, motion for summary judgment (ECF No. 42) be granted in part and denied in part. The parties were allowed until August 12, 2013, to file objections. Service was made on Plaintiff by mail at Toler House RRC, 20 Toler Place, Newark, New Jersey, the current address of record, and on Defendants. No objections were filed. After de novo review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 5th day of September, 2013;

IT IS HEREBY ORDERED that that Defendants' motion to dismiss, or in the alternative, motion for summary judgment [ECF No. 42] is GRANTED in part and DENIED in part, as follows:

1. Defendants' motion is GRANTED with regard to Plaintiff's Eighth Amendment failure to protect claim, and said claim is

dismissed;

2. Defendants' motion is GRANTED with regard to Plaintiff's official capacity claims against Defendants, and said claims are dismissed for lack of subject matter jurisdiction;
3. Defendants' motion to dismiss Defendants Angell, Baldensperger, and Sisk for lack of personal involvement is GRANTED, and said Defendants are terminated from this case; and
4. Defendants' motion is DENIED in all other respects.

The report and recommendation of Magistrate Judge Baxter, dated July 26, 2013 [ECF No. 46], is adopted as the opinion of the court.

/s Terrence F. McVerry  
TERRENCE F. McVERRY  
United States District Judge

cc: Susan Paradise Baxter  
U.S. Magistrate Judge

All counsel of record  
(Via CM/ECF)

LEONARD HUDSON  
40065-050  
TOLER HOUSE RRC  
20 TOLER PLACE  
NEWARK, NJ 07114  
(Via First Class Mail)